

and 12:

- a. a data storage adapted to store a plurality of data;
- b. a sample chamber being directly attached to the data storage device; and
- c. the sample chamber being attached to the data storage device in a flexible and movably hanging manner.

The Examiner considers the relay 69 of Smollett as a data storage device. The Examiner asserts that Smollett's relay 69 stores a plurality of data because it works on a plurality of switches 66 and 63. This assertion is traversed, because the solenoid 63 only receives input from the relay 69, and does not send any data to the relay 69.

As Smollett discloses as Column 3, lines 36-39, the solenoid 63 is actuated by the electrical relay 69 in response to electric current conducted from the thermal regulator 66 by the electric cable 68. For example, when the temperature in chamber 15 becomes warmer than desired, the thermal regulator switch 66 causes the solenoid 63 to change the position of the valve 60 to connect the duct 50 with the by-pass duct 55. See Column 3, lines 38-57. In other words, the transfer of any data is one way only, from the switch 66 to the solenoid 63 via the relay 69. Accordingly, relay 69 does not accept any data from the solenoid 63. In fact, the relay 69 relied upon by the Examiner is an electromechanical switch, which has two conditions, namely activated or non-activated. Therefore, the relay 69 stores only one bit, not a plurality of data as asserted by the Examiner. Accordingly, the relay 69 of Smollett does not represent a data storage device as claimed, because the relay is not capable of storing a plurality of data.

Regarding the claimed direct attachment between the sample chamber and the data storage device, as recited in the independent claims, the Examiner asserts that the duct cable 82

of Smollett is connected to the relay 69 through thermostatic fluid contained in the chamber 15. This assertion is respectfully traversed, because the thermostatic fluid, which is merely a chilled atmosphere, in the chamber 15 cannot provide a direct attachment between the sample chamber and the data storage device.

The thermostatic fluid in Smollett is simply atmospheric air chilled with dry ice 36 to maintain a desired temperature differential between chambers 13 and 15. See Column 3, lines 55-59. This chilled environment cannot provide a direct attachment of the sample chamber with a data storage device. The claimed term “directly attached” would be understood to a person of ordinary skill in the art as a fixed connection between both parts. The Examiner has identified the electric lead 68 as a direct attachment. However, the electric lead 68 connects the switch 66 to the relay 69 only. The fluid referred to by the Examiner as an attachment from the duct cable 82 to the relay 69 is simply an atmospheric environment chilled with dry ice and incapable of providing a direct attachment as claimed because the thermostatic fluid is not an intervening connector therebetween. Therefore, the duct cable 82 and relay 69 are not directly attached by an atmosphere of thermostatic fluid.

Under MPEP §2111, it is understood that during patent examination, pending claims must be given their broadest reasonable interpretation consistent with the specification (i.e., the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art). In other words, the broadest reasonable interpretation of the claims must be consistent with the interpretation that those skilled in the art would reach. Here under the Examiner’s interpretation, thermostatic fluid provides a direct attachment between a duct cable 82 and electronic leads. Under this interpretation, all items would be directly attached

in a chilled atmosphere, such as all items in an air conditioned house, all birds flying in an arctic/Antarctic region, etc. Applicants respectfully submit that this interpretation of the Examiner of a duct cable and electronic leads being directly connected by a chilled atmosphere (i.e., thermostatic fluid) is unreasonable and inconsistent with the interpretation that those skilled in the art would reach. The chilled atmosphere (i.e., thermostatic fluid) in the chamber 15 cannot provide a direct attachment between the duct cable 82 and electronic lead 68 of Smollett. Applicants note that this claimed feature of direct attachment was not expressly discussed by the Examiner in his claim rejection, nor in his response to arguments despite the Applicants' previously filed amendment and discussion thereof, and thus may have been overlooked during examination.

As the sample chamber of Smollett is not attached to the relay 69, or to any data storage, a flexible and moveable hanging attachment cannot be disclosed or achieved by Smollett.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that Smollett does not disclose at least one data storage adapted to store a plurality of data, at least one sample chamber being directly attached to the at least one data storage device, and the at least one sample chamber being attached to the at least one data storage device in a flexible and movably hanging manner as recited in the independent Claims 1 and 12. Claims 2-10, 13 and 15-18 depend from one of the independent Claims 1 and 12, and are also believed to be allowable over Smollett for at least the reasons discussed above. Withdrawal of the rejection of the claims under 35 U.S.C. §102 and §103 over Smollett is respectfully requested.

Smollett and Takiue

Claim 14 stands rejected under 35 U.S.C. §103(a) over Smollett in view of Takiue (U.S. Patent Publication No. 2002/0007256A1). This rejection is respectfully traversed for at least the reasons set forth below.

The Examiner admits that Smollett does not disclose measured and reference data and asserts that it would have been obvious to modify Smollett in view of the process center 32 of Takiue to obtain the desired analysis of the data. However, assuming, *en arguendo*, that the references could be combined, the combination would not have resulted in the features discussed above that are recited in Claim 12, and missing in Smollett. That is, Takiue does not teach at least one data storage adapted to store a plurality of data, at least one sample chamber being directly attached to the at least one data storage device, and the at least one sample chamber being attached to the at least one data storage device in a flexible and movable hanging manner as recited in independent Claim 12, from which Claim 14 depends. Therefore, Claim 14 is believed to be allowable over the combination of references. Withdrawal of the rejection of Claim 14 under 35 U.S.C. §103(a) is respectfully requested.

Claim 11

Applicants note that Claim 11 is not rejected or discussed in the Office Action. Applicants further note that Claim 11 has never been rejected over prior art, and thus believe the Examiner agrees that Claim 11 recites allowable subject matter above the subject matter recited in its independent Claim 1. Confirmation of the indication of allowable subject matter is respectfully requested.

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CONCLUSION

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Please charge or credit our
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